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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,934	05/20/2005	Patrick, Michel White	PRE-SA-0105	7095
33751	7590	07/22/2010		
Greatbatch Ltd.			EXAMINER	
10,000 Wehrle Drive			LAWSON, MATTHEW JAMES	
Clarence, NY 14031			ART UNIT	PAPER NUMBER
			3775	
NOTIFICATION DATE		DELIVERY MODE		
07/22/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mscalise@greatbatch.com  
dkraft@greatbatch.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/510,934	<b>Applicant(s)</b> WHITE ET AL.
	<b>Examiner</b> MATTHEW LAWSON	<b>Art Unit</b> 3775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 19 May 2010.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-10, 17, 26, 32-34 and 39-45 is/are pending in the application.

4a) Of the above claim(s) 2-3, 5, 7-10, 17, 32, and 34 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1, 4, 6, 26, 33 and 39-45 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date: \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 19<sup>th</sup>, 2010 has been entered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6, 26, 33, and 39-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lechot (US 6,702,819) in view of Salyer (US 4,811,632) in further view of Calandruccio et al. (US 5,913,858).

Regarding claims 1, 4, 6, 26, 33, and 39-45 Lechot discloses a surgical reamer for cutting a bone socket comprising a dome portion (9, figure 3) of a hemisphere extending from an apex to a lower edge (figure 3), the dome portion being rotatable, *i.e.* capable of, about a longitudinal axis that is perpendicular to a theoretical equatorial plane of the hemisphere and that passes through the apex of the dome portion (see

abstract) and an alignment structure (figure 1) for detachably connecting the hollow dome to a drive mechanism, wherein the alignment structure comprises a first bar (1, figures 1-3) having a first length extending to opposed first ends connected to the inner surface of the dome portion at locations along the second theoretical plane; a second bar/cross member (2, figure 1) bisecting the first bar, wherein the second bar/cross member has a second length extending to opposed second ends that reside intermediate the theoretical equatorial plane and the apex of the dome portion and that are spaced inwardly from the second edge portions of the dome (figures 1-3); and wherein the first length of the first bar is greater than the second length of the second bar/cross member (figure 1), wherein the cross-member has opposed free ends (figure 1) and being of a lesser length than the first bar (figure 1), the cross member intersecting the bar (figures 1-2) at the axis to define a cruciform shape (figure 1) for receipt by a bayonet catch on a holder while allowing removal of debris adjacent the free ends of the cross member (figures 1-3), wherein the second bar intersects the first bar at a right angle (figure 1), and opposed ends of the first bar are connected to the inner surface of the dome portion (figure 3) at locations along the second theoretical plane and spaced from the theoretical equatorial plane toward the apex (figures 2-3).

Lechot fails to expressly disclose the outer surface of the dome portion presenting multiple cutting sites comprising apertures suitable for passing debris into a cavity defined by an inner surface of the dome where the debris may accumulate, and a holder member that is detachably connectable to the alignment structure for transmitting

rotational torque to the hollow dome. Lechot does however disclose that although the hollow dome is shown diagrammatically as a simple smooth cap, but in reality the cap is provided with teeth as shown and thereby incorporated by reference in US Patent 4,811,632 (*Salyer*).

Salyer teaches an outer surface presenting multiple cutting sites (44, figure 5) comprising apertures (38, figure 5) suitable for passing debris into a cavity defined by an inner surface of the dome (figure 5) where the debris may accumulate and a holder member (30 and 46, figures 1 and 3) that is detachably connectable to the alignment structure for transmitting rotational torque to the hollow dome (column 3, lines 3-9) to permit cutting of bone via the teeth and apertures for funneling the bone debris through the aperture and into the hollow interior.

Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the reamer to include multiple cutting sites comprising apertures and a holder member detachable connectable to the alignment structure to permit cutting of bone via the teeth and apertures for funneling the bone debris through the aperture and into the hollow interior.

Lechot in view of Salyer fail to disclose at least two opposed first edge portions of the lower edge residing on the theoretical equatorial plane, wherein a second theoretical plane intersects the dome portion along the longitudinal axis and along the first edge portions residing on the theoretical equatorial plane; and at least two second edge portions of the lower edge spaced from the theoretical equatorial plane toward the apex,

wherein at least one of the second edge portions resides on opposite sides of the second theoretical plane with at least two of the second edge portions being disposed between and connected to two of the first edge portions.

Calandruccio disclose at least two opposed first edge portions (2.60, figure 20) of the lower edge residing on the theoretical equatorial plane, wherein a second theoretical plane intersects the dome portion along the longitudinal axis and along the first edge portions residing on the theoretical equatorial plane; and at least two second edge portions (2.47, figure 19) of the lower edge spaced from the theoretical equatorial plane toward the apex, wherein at least one of the second edge portions resides on opposite sides of the second theoretical plane with at least two of the second edge portions being disposed between and connected to two of the first edge portions (figures 19-20) wherein the second curved portions are opposed to one another on opposite sides of the second theoretical plane (figures 2-7) and are convex relative to the rotational axis (figures 2-7) to provide relief clearances as the cutting instrument head oscillates and so that during operation the effective arc of the cutting head does not strike opposing bone surfaces (column 9, lines 8-14).

Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the dome portion of the surgical reamer to have at least two opposite first edge portions of the lower edge residing on a theoretical equatorial plane and at least two second edge portions of the lower edge spaced from the theoretical equatorial plane toward the apex opposite the first edge portions and are convex relative to the rotational axis to provide relief clearances as the

cutting instrument head oscillates and so that during operation the effective arc of the cutting head does not strike opposing bone surfaces as taught by Calandruccio.

***Response to Arguments***

Applicant's arguments filed May 19<sup>th</sup>, 2010 have been fully considered but they are not persuasive. The applicant's representative argues that the pin 2 (see figures 1-3) does not have free ends. The examiner respectfully disagrees, the pin indeed has free ends in which the arms 3 and 4 are capable of attaching to the pin; as claimed the pin is capable of being attached to a bayonet catch which depending on the arms of the bayonet catch would grasp pin 2 without the arms on it or indirectly via the arms 3 and 4 when they are installed onto the pin.

The examiner suggest that the applicant better define the shape of the first edge portions and second edge portions which appear to be non-planar is shape.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW LAWSON whose telephone number is (571)270-7375. The examiner can normally be reached on M-F, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./  
Examiner, Art Unit 3775

/Thomas C. Barrett/  
Supervisory Patent Examiner, Art  
Unit 3775